

ICAC

OPEN HEARING

BEFORE THE HON. BRUCE LANDER QC
INDEPENDENT COMMISSIONER AGAINST CORRUPTION

MR. M. RICHES Counsel Assisting

Courtroom 3

Level 7, Riverside Centre Building

North Terrace, Adelaide

FRIDAY, 24 APRIL 2015 at 10:00am

Witnesses:

COMMISSIONER BURNS, GARY, Commissioner of Police, South Australia Police

SUPERINTENDENT BAULDERSTONE, CHRISTINE, Officer in Charge, Anti-Corruption

Branch, South Australia Police

SUPERINTENDENT PATTERSON, CRAIG, Officer in Charge, Internal Investigation

Section, South Australia Police

SHANAHAN, PETER, General Counsel, South Australia Police

THE COMMISSIONER:

Good morning, Commissioner.

COMMISSIONER BURNS:

Good morning, Commissioner.

THE COMMISSIONER:

I'm very grateful for you taking the time to come today at this public hearing. It will be very useful to have your input into the matters under consideration. I'm also very grateful that Superintendent Baulderstone and Superintendent Patterson could be present and Mr. Shanahan. I invite you to make any submission you wish to make in relation to the submission you have already made which of course I have read and to acquaint me with any facts which you think I need to know.

COMMISSIONER BURNS:

Thanks Commissioner. My intention is to actually refer to our written submission. I will go through that –

THE COMMISSIONER:

Yes.

COMMISSIONER BURNS:

– for your benefit. Then I will invite Christine Baulderstone from Anti-Corruption Branch to provide some detailed information about the branch itself and then Craig Patterson, who is in charge of the Internal Investigation Section, to make some comments in relation to the Ethical and Professional Standards Branch. I would also like the opportunity to respond to some of the information that was provided to you yesterday.

THE COMMISSIONER:

Certainly.

COMMISSIONER BURNS:

And clarify things for the record.

THE COMMISSIONER:

Sure.

COMMISSIONER BURNS:

This introduction will probably take me about ten to 15 minutes to read through.

THE COMMISSIONER:

Certainly.

COMMISSIONER BURNS:

Thanks, Commissioner. I request that all previous relevant interaction and advice provided from SAPOL be considered to inform this current process of review.

The implementation of the Office for Public Integrity (OPI) and ICAC in 2013 was always going to present challenges and essentially alter the landscape in South Australia in relation to integrity and corruption investigations. The commitment by all parties to address those challenges has been well intentioned and appropriately focused. And this review is evidence of that continued commitment.

Notwithstanding the extent of the cooperation, it is clear that the current framework concerning assessment, allocation, oversight and management of police-related complaints in particular remains problematically complex and duplicitous.

OPI and ICAC were intended to augment the roles of the Ombudsman, the Police Ombudsman

and the Commissioner for Public Sector Employment and it is apparent that certain procedural issues have resulted in duplication of effort and as a result there has been an unintended impact on the efficient operations of the Office of the Police Ombudsman, which has in turn flowed through to SAPOL. In practical terms this translates to notable delays in bringing matters to an appropriately and timely outcome.

There is little doubt that the current arrangements between agencies need to change.

That change process should focus on clarifying roles and functions, streamlining of the assessment/allocation process relating to police complaints and ensuring that relevant legislation supports any change that is made or in the least supports that which is retained.

SAPOL has a high level community satisfaction relating to ethics and integrity and this achievement is a direct result of the professionalism and attitude demonstrated by the majority of SAPOL members.

The organisational commitment to ensuring the highest of standards is supported by a comprehensive internal complaints and disciplinary framework. SAPOL is committed to the development and implementation of best practice for the management of behaviour, conduct and/or work performance issues identified as a result of an investigation into complaints and reports against SAPOL employees.

Organisationally, SAPOL has an Ethical and Professional Standards Branch which assumes overall responsibility for managing the disciplinary framework utilised by SAPOL. EPSB coordinates the investigation, adjudication and prosecution of matters involving complaints against employees and internal SAPOL conduct investigations.

EPSB includes the Internal Investigation Section and this provides a state-wide response to the requirements of the Police (Complaints and Disciplinary Proceedings) Act and internal

investigations involving suspected criminal offences and breaches of the Code of Conduct as prescribed in Police Regulations. Internal Investigation Section investigators are required to investigate as directed by the Police Ombudsman who independently assesses each investigation and makes recommendations to my office.

Additionally SAPOL operates an Anti-Corruption Branch which has a primary role to ensure allegations of corruption in public administration referred to SAPOL by the ICAC are appropriately investigated. The investigations are not restricted to allegations of corruption in SAPOL and their remit extends across matters of all public administration. Notably, prior to the commencement of ICAC the ACB was governed by a ministerial direction that mandated its operations. ACB was only permitted to investigate criminal matters that constituted corruption as provided in a very narrow definition.

In regards to the police complaints and mandatory reports, within the current legislative framework complaints about police conduct can be made direct to the Police Ombudsman, the OPI or to any member of SAPOL. Any complaint made direct to a member of SAPOL must in turn be provided to the Police Ombudsman.

It is the Police Ombudsman's responsibility to investigate complaints to which the Act applies. Those are matters of which complaints is made about the conduct of a designated officer.

And at this point it is important to acknowledge the independent role of the Police Ombudsman, which is a legislated independent agency to oversight the investigation of police complaints. Such a mechanism has existed in South Australia since 1987 and has generally served the South Australian community well.

It is the case currently that IIS staff, Internal Investigation staff, will await direction from the Police Ombudsman about a police complaint. More recently, in some cases the timeframe for this advice has extended beyond what would be an acceptable delay and I understand that on

occasions the delay has been attributed to the demands placed upon the Police Ombudsman's office by OPI and/or other workplace demands by the Police Ombudsman's office. I also understand that central to such delay is the assessment process undertaken by OPI. On this issue I have previously expressed my concerns about the role of the OPI making very comprehensive assessments of some matters before determining to refer them for investigation or inquiry.

There are of course numerous other reasons for delay within the overall framework including administrative and reporting requirements and most likely resourcing as identified in the discussion paper.

I request that you consider the particular issue of assessment by OPI as part of this review.

In any case, a complementary scheme also operates which involves reports of suspected breaches of the Code of Conduct which are made by police officers to me. Between the agencies such reports are referred to as mandatory reports.

In 2012, when the ICAC Bill was introduced, an amendment was made to the Police Act which obliged me to advise the Police Ombudsman of the details of those mandatory reports. And for the sake of clarity breaches of the Code of Conduct can range from very minor to the very serious, including such things as speaking inappropriately to another officer or failing to maintain care for property or similar matters. These mandatory reports are fundamentally internal disciplinary matters which should be dealt with swiftly, and in most cases in a manner that encourages behavioural change and education to the workforce.

It is common ground between the Police Ombudsman and SAPOL that a complaint in the context of complaints against police or other government agencies is an expression of a grievance. The person expressing the grievance brings it to the attention of a relevant person or agency with the expectation that it will be considered or addressed in some way.

To the contrary, a police officer or police cadet has a mandated statutory obligation when he or she reasonably suspects a breach of the Code of Conduct to report such suspicion to the Police Commissioner. It does not matter whether an offence – sorry, it does not matter whether an officer has a grievance or not as they have a legislative, a positive obligation to report such matters to the Commissioner.

It would seem logical that if the Police Act places a positive obligation on police officers to make reports of their suspicions to the Police Commissioner then the Police Commissioner should be entitled to deal with such disciplinary matters in a manner in which he or she deems appropriate. This is how section 38(2) of the Police Act is framed, in that subject to the Police Ombudsman exercising any other power, the Commissioner may cause the matter to be investigated. In other words, it is a matter for the Commissioner how such matters are dealt with.

From a practical perspective on a daily basis each mandatory report is assessed by Internal Investigation Section. Part of that assessment determines if the matter should be reported to the ICAC, and also determines if a matter could potentially involve a complaint about the conduct of the police officer by a person with a particular grievance, usually a member of the public. Where there is any doubt a decision is made to await the direction of the Police Ombudsman before proceeding with internal action. Regardless of the assessment every report is referred on a daily basis to the Police Ombudsman.

For example, it can sometimes be the case that a police officer will make a mandatory report about the behaviour of another police officer towards a member of the public. In those circumstances, it is not uncommon for the police officer, having been notified of the mandatory report by SAPOL, to make contact with that member of the public involved, and ascertain if that member of the public wishes to make a complaint about the conduct.

Where the member of the public does not wish to make a complaint the police officer refers the matter back to the Police Commissioner to deal with as he or she deems appropriate. If the member of the public does wish to make a complaint the police officer can then register the complaint and direct the Police Commissioner – the sorry, the Police Ombudsman can then register the complaint and direct the Police Commissioner as to how the matter is to be investigated. The Police Ombudsman will then retain the oversight of the investigation and make a written assessment which is provided to the complainant.

In certain circumstances, where a suspected breach of the Code of Conduct is evident, Internal Investigation Section staff make decisions and commence action immediately to investigate or resolve these matters in any case. A responsibility of the Police Ombudsman is to advise the OPI of any reports which are considered to be serious or systemic misconduct or reports of maladministration. This is another outcome of the Police Ombudsman receipt of mandatory reports from SAPOL.

The extent of external oversight concerning assessment of mandatory reports has potential to create significant delays in actioning an appropriate response and unnecessarily complicates the efficient operation of SAPOL as an organisation.

As indicated within the discussion paper, time delay in bringing matters to conclusion is a significant issue of concern. Such delays impact on the community through loss of confidence in the system and impact on SAPOL members as they await the outcome of investigations.

In any case, as described, this reporting process now occurs. However, in the majority of instances where a police officer is reporting to me about a suspected breach of the Code of Conduct it is not a matter which falls within the jurisdiction of the Police Ombudsman.

There are some occasions where there is an overlap and mechanisms exist between our agencies to identify those circumstances.

Any system that imposes an obligation on the Police Ombudsman or any other agency to oversight every mandatory report of police misconduct would be onerous and counter-productive to the responsibility of the Police Commissioner to effectively manage police employees. For more serious matters external oversight already exists through ICAC.

Nonetheless, it is a point of agreement with the Police Ombudsman that in most instances a mandatory report made to me remains my responsibility to deal with.

The resources of the Police Ombudsman's office are far better utilised in assessing and overseeing the investigations of complaints made about the conduct of designated officers rather than having to deal with matters of internal discipline.

I would be deeply concerned about any system which required the Police Ombudsman or another office to make an assessment of every mandatory report before my officers could act.

I am strongly of the view that there are matters of internal breaches of the Code of Conduct which should remain within my determination to manage.

With regard to the Police Ombudsman, the current framework and interoperability of agencies is influenced by a suite of legislation, most relevantly the ICAC Act, the Police Act, the Police (Complaints and Disciplinary Procedures) Act and I request that you consider the impact of the ICAC Act on the Police Ombudsman's function as part of this review.

The existence of an entity such as the Police Ombudsman is vitally important to the effective assessment of complaints from members of the public which we receive.

It is apparent that within the current framework the Office of the Police Ombudsman has developed a practical and operational understanding of the practices and procedures under

which SAPOL operate.

This naturally assists in the assessments of complaints received.

The heightened level of awareness comes not only from the day-to-day operation of the Police Ombudsman but SAPOL has also provided opportunity for the Police Ombudsman to view operational training sessions, deliver Police Ombudsman specific training to recruits and promotional courses and engage meaningfully with SAPOL staff on many of the complex matters surrounding police complaints. The independence of the Police Ombudsman is and remains an important factor. And I ask that in the process of review you consider the role of the Police Ombudsman as an independent oversight body with specific responsibilities towards police conduct in this state. In my submission, irrespective of what disciplinary framework exists or is developed in the future it remains vitally important that total independence and a specialist capability of the oversight body is maintained.

As an example, if the Office – if the OPI was to assume the responsibility for receiving and assessing all police-related complaints, and the current level of assessment currently undertaken by OPI was to be applied to all such complaints I would envisage that the entire system would mostly likely become more inefficient.

I provide this opinion based on what occurs currently when pursuant to section 23 of the ICAC Act OPI undertakes assessment processes of all complaints and reports. The interpretation of assessment has been an ongoing point of discussion between SAPOL and ICAC.

In practical terms, it has become the practice for OPI to undertake a comprehensive assessment of every report received before determining whether it is corruption, maladministration or misconduct.

The consequence of this is two-fold. Firstly, it requires SAPOL to collect and collate large

amount of information and pass it on to the OPI and secondly, it delays the assessment process and therefore the ability of SAPOL to commence an investigation by often up to several months.

Further, the assessment process apparently conducted by OPI is often so comprehensive that it appears to more align to a preliminary investigation rather than an initial assessment. While this may on some occasions result in a report being filed, often it results in duplication of work for SAPOL and unnecessary time delays.

I request that you consider the process of assessment by OPI and/or any other entity, the impact of the process on the ultimate administration of justice.

The other area we are looking at now is defining corruption. I have previously outlined my concerns regarding the very broad definitions of corruption within the current ICAC Act which effectively catches any suspected statutory offence no matter how minor. There is also a reporting requirement for misconduct. The primary objects of the Act outline the primary, of the ICAC, of – the primary object of the ICAC Commissioner is to investigate serious or systemic corruption in public administration and to refer serious or systemic misconduct or maladministration in public administration to the relevant body, giving directions or guidance to the body or exercising the powers of the body as the Commissioner considers appropriate.

This very broad definition of corruption under the Act and the narrow level of reporting initially required for misconduct matters may have resulted in the focus of OPI or ICAC having a lower threshold that perhaps was intended by Parliament.

Whilst there has been some shift by your office in the need to report low-level misconduct matters I maintain my concerns about the duplicitous role of the OPI/ICAC and the Police Ombudsman and the inevitable inefficiency this creates.

SAPOL considers the definition of corruption which previously existed under the Anti-Corruption Branch ministerial directions would provide far greater focus and clarity for the operations of OPI and ICAC. And that is:

- a) conduct of a public official involving a breach or neglect of duty or abuse of office engaged in as a result of a bribe or threat or to gain any financial or other advantage or for any dishonest or improper purpose;
- b) the conduct of a public official or any other person involving the soliciting, offering, taking or giving of a bribe or any financial or other advantage, or the making of any threat, to induce a breach or neglect of duty or abuse of office on the part of a public official; and
- c) the conduct of a public official or any other person involving a conspiracy or attempt to engage in conduct of a kind referred to in the first two paragraphs, where the conduct constitutes or involves or might constitute or involve, a criminal offence.

Perhaps for some government agencies, who may not have the established level of mandated reporting systems or independent oversight body such as SAPOL, this higher level of reporting is required. However, I ask that you consider in your review the current impact of the actual legislated definition of corruption.

I suggest the review might like to consider how the Office of the Police Ombudsman may operate if the definition of corruption did not capture every suspected statutory offence and the reports/complaints of police misconduct.

A change to the definition may also significantly impact on the current or future level of resources required within OPI/ICAC.

Sanctions being applied to police officers: section 40 of the Police Act allows for the Police Commissioner to determine punishment where a person admits a breach of the Code or

commits an offence. This occurs once the matter has been determined in the Police Disciplinary Tribunal or the criminal courts. There are a range of other sanctions which enable less serious breaches of misconduct to be dealt with in a more efficient and effective manner. This includes the minor misconduct process and the managerial support process. For complaint matters, the Police Ombudsman makes recommendations to me as to how substantiated matters should be dealt with. For mandatory reports the approach is a matter for the Police Commissioner.

The Police Disciplinary Tribunal is an important feature of the police complaints and disciplinary process and is not always the most effective way to deal with misconduct or rectify errant behaviour in a timely manner.

I ask that during your review you take into account the important role that the Police Ombudsman plays in making recommendations to me about how substantiated allegations are dealt with and additionally my discretion in relation to mandatory reports of misconduct and any sanction which should be applied.

And thank you for the opportunity to provide these views.

THE COMMISSIONER:

Thank you, Commissioner.

COMMISSIONER BURNS:

At this stage if I could ask Chris to talk about Anti-Corruption Branch.

THE COMMISSIONER:

Sure. Superintendent.

SUPERINTENDENT BAULDERSTONE:

Anti-Corruption Branch has 19 staff which includes a special technical support unit. As the Commissioner has said, it was formerly controlled by ministerial directions, which is purely focused on the investigation of corruption matters state-wide which includes police and non police. However, we've had and still do have corruption investigations in relation to police with misconduct falling out of these. With the introduction of the ICAC we have maintained a corruption investigation focus albeit the expanded definition has resulted in approximately a 236 per cent increase in our workload. We currently have six joint investigations regarding police corruption with ICAC and four referred matters. That is about as far as we go. So we mainly focus on corruption, as you would be aware.

THE COMMISSIONER:

Thank you. Superintendent.

SUPERINTENDENT PATTERSON:

Thanks, Commissioner. As our Commissioner has already outlined Internal Investigation Section fits underneath Ethical and Professional Standards Branch and we mainly deal with all complaints and we've already outlined that they really form two categories of police complaints or mandatory reports. To provide some context for this hearing the day-to-day business of Internal Investigation Section is to deal and assess each and every complaint that we receive. Now those complaints can come in from various means and most often they come from our own members which are reported in on an email system. They fill out a form which we call a 185, which is a complaint form which comes into our office. It's also matters are referred by the Police Ombudsman that we receive. We also receive ministerial requests that come in that have a complaint associated with them. We also may get direct emails from members of the public.

Irrespective of how we receive a complaint, they all come to my office and they are dealt with. In regards to how we deal with them, the day-to-day business is that on each business day at 9 o'clock in the morning we have what we call an allocation meeting. So every complaint that is

received within the preceding 24 hours, with the exception of a weekend, is assessed and reviewed prior to that 9 o'clock meeting. So, the previous day, when the complaints come in that morning, early, they are assessed by Internal Investigation detectives, and they are all experienced members that have been there for some time with a tenure of a maximum of five years, and it's those officers which will make an assessment of a complaint. That is value added by our Intelligence and Probity Section and so that may be that if it relates to a police complaint about service delivery, there may be a police patrol in attendance so we look at our police communication taskings and other information that can add some value to the actual complaint. So by 9 o'clock, when we have our allocation meeting, individual officers within our branch would have split up those complaints and normally we try and keep them to a maximum of four, because it takes some time to review them and then they would provide myself and other members in a board room a synopsis or summary of that complaint. And from that an assessment is made in regards to whether it's a police complaint, whether it's a mandatory report, whether we need to advise the Police Ombudsman's office, whether we need to provide the ICAC office through OPI. All those assessments are made.

We have what we call an "allocation sheet", which is obviously a record of our decision-making process and in that forum, that allocation meeting, there is myself – my position chairs it. We also have the Internal Investigation supervisors which are making the assessment on individual complaints and we have our Intel people that are there as well to provide an input. Once we have determined how that matter should be dealt, if it relates to a Police Ombudsman matter we now have an electronic process where that same day that complaint is electronically transferred to the Police Ombudsman's office. So we are very confident that we deal with those initial complaints very quickly. How we deal with them after that, obviously, would depend on the nature of the complaint; if it's a Police Ombudsman, we await direction, which does cause us time delays. If it's a mandatory report then we deal with the issue immediately and it's sent to the appropriate area to investigate, whether that's from the Internal Investigation Section to investigate or whether we send it out to local management areas to investigate those complaints. And the Police Ombudsman, obviously, after they have done an

assessment, will write back to us and advise us what action they would like us to take. And we would take that action. It would be allocated within the Internal Investigation Section or to local management or a specific area in some cases depending on the nature of the complaint.

THE COMMISSIONER:

Thank you. Commissioner, may I raise a few matters with you in relation to your submission?

I agree with most of what you have said and in particular with your comments about the existing inefficiencies in the systems. I think the imposition of my office and the Office for Public Integrity compounded existing inefficiencies because it was not clear in the legislation who had responsibility for what and when. And that was one of the reasons I spoke to the Attorney General and I am sure it is probably the reason why this review is taking place.

There has been no failure of cooperation between SAPOL and the Police Ombudsman with my office and indeed there has been a ready cooperation with my office. But in the end result, we have a structure at the moment which does give rise to inefficiencies and delays and in that sense is probably compromising the integrity system in South Australia. One of the matters that I have observed is that there are now three different agencies carrying out assessments at first instance; SAPOL of course, as Superintendent Patterson has just described, OPI as you mentioned and also the Police Ombudsman. There might be a good argument for SAPOL to have responsibility for all the assessments. Would you agree with that?

COMMISSIONER BURNS:

Yeah, I think with the new legislation that has come in with the ICAC it has been put together with existing legislation and it really needs that review to say what is the structure for the future.

THE COMMISSIONER:

Sure.

COMMISSIONER BURNS:

And the majority of complaints we get SAPOL would adequately manage the assessments –

THE COMMISSIONER:

Yeah.

COMMISSIONER BURNS:

– and we would expect that the management of those assessments and investigations would be oversighted by a body whether it's OPI or the Police Ombudsman or ICAC. But I think at this stage what we've got is we have got three bodies, plus SAPOL, involved and legislation that has been running since the '80s cobbled together with legislation that was put in in the late 2000s and it really needs that holistic approach to the integrity system in South Australia.

THE COMMISSIONER:

Yeah, I think one of the problems at the moment is that a complainant may go to three different parties – to SAPOL, the Police Ombudsman or OPI – make their complaint and those agencies will make an assessment but the assessment may not be common because you have different levels of assessment by different agencies so that the argument might – there might be a good argument for having SAPOL assume responsibility for all assessments in the first instance, subject of course to oversight. But that SAPOL have the responsibility of making all assessments and that would seem to me allow SAPOL to move more quickly in relation to the investigation of those that are necessary to be investigated.

COMMISSIONER BURNS:

And I think that's the critical factor in providing an effective system and efficient system, is to make sure that the resolution of complaints are managed as closely as possible to the – when the complaint is made. And the current system doesn't allow that. I would think, and Craig would be able to correct me if I'm wrong here, but the vast majority of complaints that are dealt with involving police are actually made to police, not necessarily to the Police

Ombudsman. Because we are talking mandatory complaints which are internally generated and we are also talking the external generated complaints from a member of the public can either go to the Police Ombudsman or a police officer. So, I would concur. I think there is an opportunity there to streamline the system, have police do the assessments but be appropriately oversighted so that there is no concerns about the way police manage the system.

THE COMMISSIONER:

Yeah.

COMMISSIONER BURNS:

And that oversight should be rigorous and it should be made available at any point in time.

THE COMMISSIONER:

Yeah. Well, that – if that were the system, it would seem to me that police could get about either managing the complaint, if it's a management matter, or investigating it, if it's a matter that requires investigation, at an early stage. And an earlier stage than police presently can.

COMMISSIONER BURNS:

And that's correct. And I deal with the outcomes of these complaints and that when I, you know, provide penalties to some of the officers that – who have been found to breach the code and that. And I'm providing penalties three to four years after the event.

THE COMMISSIONER:

Yeah.

COMMISSIONER BURNS:

And I don't see how that makes for a sound disciplinary system when we're talking about breaches that might be around the way they talked to a member of the public, et cetera. It's

far better to address that quickly and provide that education and change behaviour, rather than go down it's almost like a courts martial system all the time.

THE COMMISSIONER:

Yeah. Well, that raises another matter whether the – whether the scheme, whatever it be, recognises more appropriately the fact of management of the Police Force rather than investigation of its officers. That's to say that the Commissioner of Police, you'd probably argue as Commissioner of Police that you have the responsibility of managing your Police Force and those matters that are complaints that relate to management matters ought to be dealt with by you as soon as possible.

COMMISSIONER BURNS:

And that's absolutely correct. And I think that once again, that gets back to assessment and appropriate oversight and because the majority of investigations that we're going to deal with are not going to be the high-end serious investigations which could be taken over by an ICAC or whatever investigative body that may fit under an ICAC. But a lot of the other investigations would be managed by police, both within the Internal Investigation Section, Anti-Corruption Branch or moved out to various other areas for investigation. But to me it's all about I have a duty or an accountability under the Police Act to effectively and efficiently manage the Police Force and to maintain standards of discipline. It would be very difficult for a Police Commissioner to maintain standards of discipline when you have a process that is so slow to make assessments and so slow to provide penalties or educational training or any other outcome for what I consider a lot of minor breaches, minor breaches of the Code of Conduct, not the serious breaches. And with the serious breaches obviously the oversight provided by the ICAC would ensure that all investigations are done thoroughly and the right outcome be achieved.

THE COMMISSIONER:

Over the last couple of months I have spoken to a number of agencies in the other states and I

went to New South Wales and Victoria for the purpose of speaking to police and the integrity agencies in those states. In both of those states the oversight agency has direct access to the police computer system in relation to complaints so that the oversight agency can know at any stage who has made a complaint, provided of course it's entered into the computer system but we assume that to be the case. What do you say about that as a way of obviating the necessity therefore for SAPOL to report to anyone because the integrity agency would know, without a report being made and which would allow the integrity agency or the oversight agency ready access to the whole of the police computer system in relation to complaints?

COMMISSIONER BURNS:

I think that's a fine solution and I think we have that solution now. The Police Ombudsman – I am not sure about your office but definitely the Police Ombudsman – can look into our system at any stage to see what status everything is in. While being able to do that – does that preclude the need for actually us to notify the Ombudsman's office about a complaint, because they should be able to just go in on the computer, check in the morning and see what's happening.

THE COMMISSIONER:

I wasn't aware that the Police Ombudsman had direct access to your systems.

SUPERINTENDENT PATTERSON:

Commissioner, no, they don't have direct access.

THE COMMISSIONER:

No.

SUPERINTENDENT PATTERSON:

We have an electronic system, we call it the blue system –

THE COMMISSIONER:

Yeah.

SUPERINTENDENT PATTERSON:

– where the files are transferred but they don't have the vision into our database is what you're alluding to.

THE COMMISSIONER:

Yeah.

SUPERINTENDENT PATTERSON:

But the proposal would be supported by us.

THE COMMISSIONER:

Good, because it seems to work very well in New South Wales and Victoria. It has cut out the need for the police there to report to the oversight agency all of the complaints because the oversight agency can find them for itself. And that seems to work rather well. The other thing in those states is the oversight agency doesn't leave a footprint when it examines the police computers. So that police don't know which one the oversight agency are looking at at any particular time, which I think also is an appropriate form of oversight.

COMMISSIONER BURNS:

Yeah, I agree. I would fully support that.

THE COMMISSIONER:

Good. If that be the case, then there would – and the oversight agency had direct access to the police information – it would seem that it would follow that police should do the assessing in the first instance because the oversight agency can watch that happening.

COMMISSIONER BURNS:

Yeah, I think that streamlines it because if police do the assessment in the first instance with the oversighting agency being able to access the system at any stage they can then question whether the assessment was correct or reaffirm the assessment. But what that does, the way you're proposing is that it will speed up the assessment process. Rather than waiting for the oversight agency to do the assessments –

THE COMMISSIONER:

Yep.

COMMISSIONER BURNS:

– they would be able to do the assessment or the checks post assessment so things would be moving as the oversight agency does the checking.

THE COMMISSIONER:

And that – that would mean SAPOL wouldn't have to wait as it does now for the Police Ombudsman to respond to the assessment before SAPOL goes about its work because it could just go about its work from the moment the complaint is made or the moment after the meeting at 9 o'clock every morning.

COMMISSIONER BURNS:

Yeah, that's correct. That would take all those time delays out and as I said that's one of the big issues about the management of a lot of these type of complaints is the delays –

THE COMMISSIONER:

Yeah.

COMMISSIONER BURNS:

– in commencing the investigations and then handing out penalties three to four years after the

event.

THE COMMISSIONER:

Yeah. Well, what then do you say to a system like this: That a complainant could complain to the oversight agency or to the Office for Public Integrity or to SAPOL but the oversight agency and the Office for Public Integrity would be required to provide that information immediately to SAPOL without any – any inquiry or any investigation of the matter and that SAPOL would then assess it as would – as it would any matter made directly – a complaint made directly to it.

COMMISSIONER BURNS:

It seems reasonable to me, and –

SUPERINTENDENT PATTERSON:

Well, in effect, that is what would happen now. Any complaint from an external agency would come to us and then it would go into that assessment process. The delay is when it's obviously referred to the Police Ombudsman or another agency.

THE COMMISSIONER:

Well, yeah, what I'm suggesting is taking away from the Police Ombudsman or whoever the integrity inquiry agency is and the Office for Public Integrity the responsibility of carrying out any assessment at all –

COMMISSIONER BURNS:

Yes.

THE COMMISSIONER:

– and imposing that responsibility on SAPOL.

COMMISSIONER BURNS:

Yes.

THE COMMISSIONER:

But that the integrity agency would know what assessment was being made at any particular time.

COMMISSIONER BURNS:

Correct.

SUPERINTENDENT PATTERSON:

If you had that oversight and that access to databases that would work.

THE COMMISSIONER:

Exactly. Do you think that'd work, Superintendent?

SUPERINTENDENT PATTERSON:

I do, yes.

THE COMMISSIONER:

Yeah, yeah. Well, that would seem to me to cut out all of the delays, or most of the delays, at first instance when complaints are usually made.

COMMISSIONER BURNS:

Yeah, it's generally the front end. Sometimes there's obviously delays in some of these cases based on length of investigation –

THE COMMISSIONER:

Sure.

COMMISSIONER BURNS:

– or going through the legal proceedings before the Police Disciplinary Tribunal. But the issues for us are generally around assessment and the delays in assessment, and then the delay to get the investigation under way.

THE COMMISSIONER:

Yeah. Well, it's not only investigations that ought not to be delayed. It's also management that ought not to be delayed. If the present system interferes with your ability to properly manage SAPOL then that is deleterious to the whole system.

COMMISSIONER BURNS:

Well, that's right. I mean when these complaints come in, the mandatory reports, I suppose every one of them goes under some form of investigation. Even those where we do conciliation where we meet with the complainant and we conciliate it. There still needs a level of investigation to determine the facts and determine the issues around it and what the complainant's looking for in an outcome. So everything we do has an element of investigation to it. You are talking about the managerial side of SAPOL. As I said we had that element of investigation, but the aim from me is to compact it as much as we can, get the appropriate outcome out of it and achieve it in a timeframe that is not only suitable to the complainant but to the officers involved.

THE COMMISSIONER:

It seems to me there are two victims in a sense, if a matter is delayed too long. The complainant continues to be a victim because he or she complained – his or her complaint has not been addressed but also the police officer who is the subject of the complaint in a sense becomes a victim, because the complaint's hanging over their head for a number of years.

COMMISSIONER BURNS:

And that's correct. And I mean if some of these, as I said the lower-level misconduct issues those that are picked up on the mandatory reporting, can be dealt with very quickly generally with some educational guidance or training, or things like that. Now, if you go into a system that is too onerous and bureaucratic, you get an outcome of education and training two years later – well, two years that officer is still potentially performing in the same manner. So the aim is deal with it as soon as possible, and provide the training and improve the performance.

THE COMMISSIONER:

Yeah. Well, discipline should be a reaction to the offence or whatever it be that you are disciplining for.

COMMISSIONER BURNS:

That's right, yeah.

THE COMMISSIONER:

There has been a suggestion that the only oversight that should occur is in relation to criminal offences and that ICAC already provides that oversight and there should be no other oversight. Would you –

COMMISSIONER BURNS:

No, I would be comfortable with all matters that are under complaint, be it mandatory or from members of the public, the oversight being available broadly, because I think we don't hide anything, we've got nothing to hide, we're going to do it properly. And so, that – I think while the concentration might be on the criminal side of things I can't see that why we wouldn't have – why that body shouldn't have the ability to look at the disciplinary side of things as well, at least as an oversight.

THE COMMISSIONER:

Well, most of the complaints made to you are not criminal in nature are they, they are mainly in

relation to conduct or misconduct?

COMMISSIONER BURNS:

Exactly, and for an oversight body, they would do their risk assessments as well and determine what they will look at and which carries more risk and you know they can do ad hoc audits any time they want to, as far as I'm concerned. Every complaint that's going to come to SAPOL is going to be managed appropriately and correctly.

THE COMMISSIONER:

What would you say if the scheme were constructed this way, that the oversight agency had the ability to carry out a random audit at any time perhaps at a particular level, and above, and that that oversight agency could require SAPOL to investigate in a particular way or alternatively could ask SAPOL to desist an investigation and take over the investigation itself?

COMMISSIONER BURNS:

I will ask Craig and Chris in a minute. But, you know, from a, you know, the broad perspective on that, look I think the audit regime – we live under audit regimes all the time with Anti-Corruption Branch audits – audits of everything we do with telephone intercepts et cetera. So audit's not an issue for us and as far as I'm concerned those audits can be, you know, on a regular basis or they can be ad hoc at any time that the oversight body wants it, it won't make any difference to us. I think in undertaking an audit you always have the right to ask whether an investigation is being conducted appropriately and suggest what may be done. But I think when it comes to actually making changes to an investigation, I think there would need to be that talk with the investigating agency whether it's Internal Investigations or ACB, to understand why they may be undertaking a particular strategy. And if at the end of the day, everyone – there's an agreement that the strategy needs to change or there's concerns about the strategy, well then I think there's that opportunity to change the strategy and move in a different direction.

THE COMMISSIONER:

Okay.

SUPERINTENDENT PATTERSON:

I concur fully. It's not unlike what would happen now. If the Police Ombudsman was of the view that we were heading in the wrong direction they would write to us and advise us you know a different level and on a majority of occasions we would do that. I would like to think that we are very, very transparent.

THE COMMISSIONER:

Yes.

SUPERINTENDENT PATTERSON:

And anything that the Ombudsman's office or OPI ask us, we give them everything.

THE COMMISSIONER:

Well, if that were the scheme then, what about the other aspect of what I mentioned – the oversight agency having the power to take over an investigation?

SUPERINTENDENT PATTERSON:

That would probably be subject to a little bit more discussion, I would respectfully submit to the Commissioner, because we would probably need to work out whether that's going to be legislated or on what authority that would – and how that would work.

THE COMMISSIONER:

Yeah.

SUPERINTENDENT PATTERSON:

We certainly would not be opposed to it –

THE COMMISSIONER:

No.

SUPERINTENDENT PATTERSON:

– because it's not unlike what happens now. But we would have to have some formal structure in regards to how that's actually managed.

THE COMMISSIONER:

I agree with that that it would have to be by way of legislation and it would have to be limited to investigations of a particular kind. I mean you couldn't have the oversight agency mucking around with management matters or anything of that type.

COMMISSIONER BURNS:

And in principle we agree with that. It just needs a process to achieve it.

THE COMMISSIONER:

The other matter that I've looked at is questions of minor misconduct that are the subject of the agreement between SAPOL and the Police Ombudsman. Would you wish to see the categorisation of minor misconduct continued and those matters being dealt with in a less formal way than matters of complaint in relation to more serious matters?

COMMISSIONER BURNS:

Yeah, I think there needs to be a delineation between matters which potentially could wind up in a – the Police Disciplinary Tribunal or something similar, to those matters that can be dealt with through minor misconduct processes. Whether we can streamline the minor misconduct processes is another issue. But, with the minor misconduct process it recognises that the complaint that has been made or the mandatory report that has been made is of a minor nature and that there's an opportunity to rectify the behaviour without going through a full

disciplinary review.

THE COMMISSIONER:

Yeah, yeah. The proposal I've suggested we might consider, that I might consider, would include the ability of the oversight agency to randomly audit mandatory reporting and the investigation of mandatory reports. Would you have any trouble with that?

COMMISSIONER BURNS:

No. I'd actually – I'm a big believer of the oversight agency. I would believe that the oversight agency would have access to everything we are doing in terms of the way complaints are managed, whether they are a mandatory report, a complaint by a member of the public or they're being managed under MMI or through the Police Disciplinary Tribunal. I've got no issues with the oversight agency being able to review what we're doing.

THE COMMISSIONER:

Good. I'll just say it. I don't think I agree with SAPOL's interpretation of mandatory reporting and the Police Ombudsman's obligations in relation to it. But that may be a matter for the past. As to the future it may not matter if a scheme of the kind that we're talking about were developed.

COMMISSIONER BURNS:

You might want to respond on that one.

SUPERINTENDENT PATTERSON:

We would be open to those suggestions in further discussions Commissioner. It's fair to say that all mandatory reports are provided to the Police Ombudsman.

THE COMMISSIONER:

Yes, I understand that happens –

SUPERINTENDENT PATTERSON:

Yeah, as it is now.

THE COMMISSIONER:

– under section 38, yes.

SUPERINTENDENT PATTERSON:

As it is now. So if we can streamline that and introduce a better practice we would – we would certainly support it.

THE COMMISSIONER:

What I am proposing is you wouldn't report anything to anyone because they would have access –

SUPERINTENDENT PATTERSON:

Yes.

THE COMMISSIONER:

– to that, so you wouldn't have the added obligation.

COMMISSIONER BURNS:

Correct.

SUPERINTENDENT PATTERSON:

Yes.

THE COMMISSIONER:

The Ombudsman has put the – not the Police Ombudsman, the Ombudsman – has put the

proposition that police shouldn't investigate police. Do you wish to say something about that?

COMMISSIONER BURNS:

This is one of the matters that I wanted to clarify that was raised yesterday. I'm not sure what the Ombudsman bases his statement on. But the reality is a statement like that needs to be backed up. And I find it quite naive and I find it insulting particularly to the professionalism and the integrity of the members of the South Australia Police. I point out that most of the major instances where South Australia Police have been involved in corruption or serious criminal matters, and have been placed before the courts – Boughen, Buckskin, Bonython, and so it goes – have been as a result of police investigations. And not all of them have been raised because of complaints by a member of the public, they have been raised because police officers have noticed something wrong and conducted an investigation.

So, I think, as I said I found it quite insulting. I think it's a direct impact on me because it says I run an organisation that can't be trusted, that lacks professionalism, and that's far from the case. Policing is built around the foundations of integrity and ethical behaviour and professionalism and we pride ourselves on that. So a comment like that, needs to be backed up in a lot of other ways. Now I know you have members of the South Australia Police seconded to conduct ICAC investigations and from my understanding they perform in an exemplary manner.

THE COMMISSIONER:

They do.

COMMISSIONER BURNS:

Just like other members of the South Australia Police. And as I said, if we have a look at – we manage all the investigations that have placed police before the courts. And we've also prosecuted a lot of police before the courts. So when you look at investigations you also have

to look at prosecutions. And so as I said, I'm disturbed by those comments and I do not agree with those comments.

THE COMMISSIONER:

Yes. Well, I think, as I put to him yesterday, every Police Force in Australia investigates itself in relation to complaints. The only police force that I am aware of that does otherwise, I think, is Ireland. Where the police force don't investigate themselves. Anyhow, I understand your point.

COMMISSIONER BURNS:

No, no. And while we're there, Commissioner, if I could raise another point?

THE COMMISSIONER:

Yes.

COMMISSIONER BURNS:

Now, I'm not sure whether some of those comments were based around the evidence provided or information provided by Vansetten. But, I'm only basing my information on the article in Adelaide Now or the Advertiser which states that Paul Vansetten appeared before the ICAC Corruption – Commissioner's first public hearing and he alleged he made a police complaint and after the Police Commissioner's intervention criminal charges were not laid against the involved police officers. What he alleged, from my understanding, is that after an 18 month investigation the Police Ombudsman stated criminal charges would be laid against police and five months later he was informed only disciplinary action would be taken after a second and varied assessment. But he did not divulge any details of his complaint, which I found quite strange.

But I'm advised, just to clarify this matter, that at about 5:35 am on the 25th of May 2010, police attended a disturbance at 10 Thorngate Drive, Paralowie. We received information from

a Daniel Vansetten, whose father is Paul Vansetten, that he had a very drunk female at the address and wanted her removed. Police attended and approached the front door and were shot at through the front door resulting in both officers receiving shrapnel wounds. Officers retreated and cordons were established and further resources including Star Group officers were called. And subsequently Daniel Vansetten was arrested.

In August 2010, Mr. Vansetten, Paul Vansetten, made a complaint alleging his son Daniel, when arrested, received several injuries including facial injuries. The Police Ombudsman made a section 21 determination that no investigation would occur pending the outcome of the Court proceedings. In November 2011, Paul Vansetten – Vansetten, the son this is, was sentenced to – I'm sorry, Daniel Vansetten – was arrested and then was subsequently sentenced to imprisonment in November 2011. In about March 2012, Mr. Vansetten lodged a second complaint regarding the failure of police to ensure his son was psychiatrically assessed. The Police Ombudsman requested an attempt to conciliate the matter; however, the matter could not be conciliated. The Police Ombudsman revoked their earlier determinations and requested a preliminary investigation into both the complaints.

And on the 17 of July 2012, the Police Ombudsman advised that Mr. Vansetten had withdrawn wishes for the first complaint, which was the alleged assault, to be investigated. The preliminary investigation report was prepared and the Police Ombudsman in September 2012 provided an Assessment and Recommendation addressing the second complaint. The Police Ombudsman recommended that five police officers receive managerial guidance in relation to failing to arrange a psychiatric assessment but on the 2nd of January 2013, Mr. Vansetten now wanted the first complaint, which was the alleged assault, investigated.

And in January 2013, Ethical and Professional Standards Branch partially disagreed with the assessment. The Branch agreed that only four police officers should receive managerial guidance. It was highlighted that the officers had not had the opportunity to provide their account of what had happened. The Police Ombudsman revoked their Assessment and

Recommendations and requested a full investigation including a section 31 report. In August 2013, the Police Ombudsman assessed that one or more officers assaulted Daniel Vansetten during the process of the arrest but that as the identity of that or those officers were not known, no action was to be taken. In September 2013, Ethical and Professional Standards Branch responded agreeing that no action should be taken against officers at the scene of the arrest but disagreeing with the Ombudsman's assessment that Daniel Vansetten had been assaulted by one or more officers. Assertions from police in attendance was that as Daniel Vansetten, he was on the roof of a house, was going down a ladder, he slipped on to the waiting officer and then on to the hard ground. At that time, Daniel Vansetten was in bare feet and it had been raining. Whilst it was conceded that Daniel Vansetten's injuries were caused around this time it was not conceded that police inflicted the injuries intentionally, as asserted by the Ombudsman. Daniel Vansetten also recorded a blood alcohol reading of .221 in the cells later that day.

So the other assertion that was made in that the Police Commissioner has the power of veto is incorrect. I have the power and delegated authority through my officers to work with the Police Ombudsman to determine an outcome and generally it's based around court, so it's around the legal outcomes. When it goes into a Police Disciplinary Tribunal or into a court we still make determinations about prospect of reasonable conviction. If I had a power of veto, power of veto means that I could just say no and it all stops there. I cannot say no. So the power of veto is an incorrect statement.

The other aspect about that is we have never gone to the Minister for a change to what the Ombudsman has said. And as an example of that, Norman Hoy who has recently been in court and the charges were dismissed, we disagreed with the findings of the Ombudsman. We didn't believe there was any reasonable prospect of conviction. The Ombudsman disagreed with us. It was taken to the DPP who made a determination and it was proceeded with by the DPP and the Police Ombudsman to prosecute Norman Hoy. If I had a power of veto I would have said no. If I wanted to take it further, I could have gone to the Minister and I didn't go to

the Minister. So we don't interfere as the assertion is that basically we interfere in the investigations and the role of the Police Ombudsman. So, I just think those points need to be clarified.

THE COMMISSIONER:

Yes. I understand your position. I understand that you don't have the power of veto. You have the power to disagree –

COMMISSIONER BURNS:

That's right.

THE COMMISSIONER:

– with the Police Ombudsman, which can lead to a reconsideration by the Police Ombudsman and perhaps a change in the assessment. But – and I understand that you have never had a power of veto, and nor –

COMMISSIONER BURNS:

Thank you.

THE COMMISSIONER:

– has it ever been purported to be exercised. Were they the two matters you wished to address?

COMMISSIONER BURNS:

Yes, they were; thank you.

THE COMMISSIONER:

Can I raise one other matter, that is, the continuation of the Police Disciplinary Tribunal? There has been suggestions made that complaints of police misconduct should be less formal

rather than under the Tribunal at the moment and should be heard in SACAT, by qualified people, perhaps it might be a representative of the Commissioner of Police, it might be a representative of PASA, it might be a representative of some other organisation, perhaps victims. Do you see any merit in perhaps deformatising to a certain extent the considerations of matters that need to be addressed in an adversarial system of that kind by taking it to SACAT?

COMMISSIONER BURNS:

I've only known the Police Disciplinary Tribunal and I think it performs an important function. Police are considered under a different regime to the rest of the public service.

THE COMMISSIONER:

Yeah.

COMMISSIONER BURNS:

There needs to be an understanding of that regime that we exist in. If the Police Disciplinary Tribunal was to move to SACAT or something similar then I would expect that there would be an area within SACAT that delivers – deals with police only. Because there needs to be understanding around that and the system we work in. So at this stage, I am comfortable with the Police Disciplinary Tribunal. But if there were changes coming out of any legislation changes or coming out of your review, I think that is something that could be looked at into the future particularly if we can take some of the legality and the black and white approach to police discipline out of the current, out of that system.

THE COMMISSIONER:

Well, that's what I'm suggesting would occur, that it would be – that the hearing in the SACAT would be before people who are qualified to hear, people as I said either nominated by the Police Commissioner or PASA perhaps or victim's group of some kind who would have experience and continuing experience on that tribunal. But that the matters would be dealt

with less formality than they presently are which might lead to an earlier resolution because they are less threatening than the Police Disciplinary Tribunal is to a police officer who is being charged.

COMMISSIONER BURNS:

Yeah, I find it difficult to answer that question at this stage.

THE COMMISSIONER:

Sure.

COMMISSIONER BURNS:

Because at the moment we are operating in this system.

THE COMMISSIONER:

Yes.

COMMISSIONER BURNS:

And I think the Disciplinary Tribunal suits this system. If you're looking at – for an overall response to how I think it should look in the future, yes I think we need to take the adversarial –

THE COMMISSIONER:

Yeah.

COMMISSIONER BURNS:

– system out of it because it is, it is a very black and white approach to delivering an outcome.

THE COMMISSIONER:

Well, it's almost raising to a criminal level a hearing in relation to misconduct which is only a civil matter. It's not a criminal matter. And it seems to me the Police Disciplinary Tribunal,

which I don't criticise for the way it does its work, it seems to me to be of a kind that elevates the conduct above itself as it were in its seriousness.

COMMISSIONER BURNS:

It's very much like a Magistrate's Court with a different standard of proof.

THE COMMISSIONER:

Yeah. Yeah, yeah, yeah, Briginshaw standard, yeah.

COMMISSIONER BURNS:

Yeah, but it's same conduct.

THE COMMISSIONER:

Do you see any part to a complainant to play in the system after the complaint is made and after perhaps a matter has not been conciliated?

COMMISSIONER BURNS:

Look, I – look I – if I could speak more broadly, I think when it comes to say victims of crime, they report a crime and police should always be aiming to keep the victim of crime informed even to the point where, even if we're going to file the matter, the victim of crime is told the matter has been filed. So I think in the present system we can do a conciliation, but the issue is that if the complainant doesn't agree to the conciliation then it progresses so I think there's opportunities to consider how that might work. But from my perspective I think we should always keep the complainant informed. And even on to the outcome. I think that's part of the resolution of the matter.

THE COMMISSIONER:

Yeah. Another suggestion that's been made is that if you are to have the continuing responsibility of imposing whatever discipline is to be imposed, either before or after a – if it's

necessary a hearing of some kind – should there be some sort of obligation on SAPOL to inform the public of the sanctions that are imposed in relation to particular conduct?

COMMISSIONER BURNS:

I don't necessarily agree with that. I think this is the –

THE COMMISSIONER:

I'm not suggesting, I'm asking whether you do agree.

COMMISSIONER BURNS:

Yeah, I don't agree with that concept then. My – look, my view is this is a disciplinary process that we are dealing with. We want people to be quite open in the way we deal with it. We want it to be more educational, more training. You know, if we have to go to heavy sanctions we go to heavy sanctions but the reality is if you put disciplinary outcomes into the public arena, what's the impact on morale of the police department, what's the likelihood of police feel constrained in the way they go about their duties and I would think it would – it goes well outside what happens to the rest of the public service and a whole range of other professions when it comes to disciplinary hearings. I'm all – all for criminal proceedings being made public, but not necessarily disciplinary proceedings.

THE COMMISSIONER:

And if I could put this, a different subject which, going back to triaging – is there any merit do you see in the triaging system having regard to the eventual outcome that might occur? That is to say that if the conduct which is complained of, without it being investigated but just on the face of it, the conduct complained of could never go above a managerial caution, that it be triaged on that basis immediately, so that it's never the subject of a full-scale investigation?

COMMISSIONER BURNS:

Yeah, I – I'll hand it to Craig but in a general – in a general sense I concur, because you can end

up doing these large investigations that ultimately you go through a very legal process to come out with a reprimand at the end of it when it could have been done very quickly in the beginning.

THE COMMISSIONER:

Yeah. Well, from an –

COMMISSIONER BURNS:

He's got –

THE COMMISSIONER:

So – yep.

SUPERINTENDENT PATTERSON:

I concur but it would probably need to have some guidelines or some further instruction in regards to how we are actually going to triage that. I think in principle that is excellent because if we can deal with it very simply, quickly and early, obviously that saves a lot of time.

THE COMMISSIONER:

If a matter could never rise above a managerial – caution or managerial guidance, would there be any merit in a system which did not allow either side to have the matter the subject of a hearing, so that a police officer who at worst would be cautioned could not claim the right to have a hearing in the disciplinary tribunal?

COMMISSIONER BURNS:

Yeah, I think that's got a lot of merit to it. Once again, as Craig said, there would be obviously guidelines and process around it. But the concept itself is a good concept.

THE COMMISSIONER:

It might take a few matters out of the Disciplinary Tribunal?

COMMISSIONER BURNS:

It would and you just heard Chris and Craig talk about the size of their areas and the number of people they have got involved and the number of complaints and investigations they put out. There are a lot of dollars and a lot of people involved in SAPOL on internal disciplinary issues that could be far better resourced or utilised dealing with criminal matters. And – and a lot of these matters that they're investigating are exactly those that you talk about that could be just managed very quickly with a limited sanction without any legal approach to it.

THE COMMISSIONER:

Well no civilian would have the right to have any sort of hearing in those circumstances. A civilian would – who's likely to be subject to a reprimand by the authority for which he or she works would simply be dealt with on a very informal basis.

COMMISSIONER BURNS:

That's – that's exactly right, yep.

SUPERINTENDENT PATTERSON:

Yeah.

THE COMMISSIONER:

Yeah. Is there anything else you or your superintendents wish to say? They are the questions I wanted to raise with you.

COMMISSIONER BURNS:

No, thank you, Commissioner.

THE COMMISSIONER:

I'm very grateful that you've taken the time and the trouble to come this morning. It's been very useful to have this discussion and in public. And this discussion will help me to decide what recommendations I'll make to government in relation to what – a scheme that needs to be improved. And that's what we're – I'm investigating, the scheme, not the people who are operating the scheme, but the scheme and how the scheme should be improved. Thank you.

COMMISSIONER BURNS:

Thank you for the time, it's very appreciated.

THE COMMISSIONER:

Thank you. Thank you very much.

COMMISSIONER BURNS:

Thank you.

THE COMMISSIONER:

I will resume again at 12 o'clock with a member of the public to give evidence.

ADJOURNED 11:06am